

Counsel listed on next page

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DAVID HALTERMAN,

Plaintiff,

v.

LEGATO SOFTWARE, a Division of EMC
Corporation; EMC CORPORATION, dba
EMC PERIPHERALS, INC., and DOES 1-X,

Defendants.

Case No. C04-2660 JW

**STIPULATION AND ~~[PROPOSED]~~
ORDER TO FILE UNDER SEAL**

**(1) DEFENDANT EMC
CORPORATION'S OPPOSITION TO
PLAINTIFF'S MOTION TO
EXCLUDE THE TESTIMONY OF
DR. JOHN ZEITZ OR, IN THE
ALTERNATIVE, TO LIMIT HIS
TESTIMONY AND STRIKE
PORTIONS OF HIS REPORT, AND**

**(2) DECLARATION OF DR. JOHN
ZEITZ IN SUPPORT THEREOF**

[CIV. L.R. 7-11, 7-12, & 79-5]

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PURSUANT TO CIVIL LOCAL RULES 7-11, 7-12, and 79-5, Plaintiff David Halterman and Defendant EMC Corporation (collectively, “the parties”) stipulate as follows:

WHEREAS, in this matter, the Court entered a Stipulated Protective Order (“the Order”) on December 3, 2004;

WHEREAS, the Order requires in paragraph 9 that:

In the event that any Confidential Information . . . is filed, included in, or referred to in any paper filed with the Court, counsel responsible for such filing shall submit the papers to the court along with a request to file under seal pursuant to Civil Local Rule 79-5;

WHEREAS, in paragraph 1 of the order, the Court defined “Confidential Information” as “information that qualifies for protection under F.R.C.P. 26(c)”;

WHEREAS, Defendant EMC Corporation’s Opposition to Plaintiff’s Motion to Exclude the Testimony of Dr. John Zeitz or, in the Alternative, to Limit his Testimony and Strike Portions of his Report and the Declaration of Dr. John Zeitz in support thereof both contain sensitive and confidential information about Mr. Halterman’s mental health, diagnoses of his mental disorders, and his personal history;

WHEREAS, the parties agree that the entire subject matter within EMC Corporations opposition brief and the declaration of Dr. Zeitz falls within this Court’s definition of “Confidential Information” contained in the Order and that Mr. Halterman should be protected from having this highly personal information contained in the public record;

WHEREAS, the parties have limited the scope of this request to meet the requirement of Civil L.R. 79-5(b) that it be “narrowly tailored to seal only that material for which good cause to seal has been established” and that it “shall direct the sealing of only those documents, pages, or, if practicable, those portions of documents or pages, which contain the information requiring confidentiality”; and

WHEREAS, the concurrence in the filing of the document has been obtained from Kathryn Burkett Dickson, Attorney for Plaintiff, Mr. Halterman;

2. IT IS HEREBY STIPULATED by and between the parties to this action through their designated counsel that Defendant EMC Corporation's Opposition to Plaintiff's Motion to Exclude the Testimony of Dr. John Zeitz or, in the Alternative, to Limit his Testimony and Strike Portions of his Report and the Declaration of Dr. John Zeitz in support thereof be filed under seal in whole.

Dated: November 28, 2005

Respectfully submitted,

KATHRYN BURKETT DICKSON
DICKSON – ROSS LLP

DAVID ANGLE
ANGLE & ANGLE LLC

By _____
Kathryn Burkett Dickson
Attorneys for Plaintiff,
David Halterman

Dated: November 28, 2005

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LYNNE C. HERMLE
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ORRICK, HERRINGTON & SUTCLIFFE LLP

LEANNE FITZGERALD
EMC CORPORATION

By _____/S/
Michael D. Weil
Attorneys for Defendant,
EMC Corporation.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated:

Hon. James Ware
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DAVID HALTERMAN,

Plaintiff,

v.

LEGATO SOFTWARE, a Division of EMC
Corporation; EMC CORPORATION, dba
EMC PERIPHERALS, INC., and DOES 1-X,

Defendants.

Case No. C 04-02660 JW

**STIPULATION AND ~~[PROPOSED]~~
ORDER TO FILE UNDER SEAL**

**(1) DEFENDANT EMC
CORPORATION'S OPPOSITION TO
PLAINTIFF'S MOTION TO
EXCLUDE THE TESTIMONY OF
DR. JOHN ZEITZ OR, IN THE
ALTERNATIVE, TO LIMIT HIS
TESTIMONY AND STRIKE
PORTIONS OF HIS REPORT, AND**

**(2) DECLARATION OF DR. JOHN
ZEITZ IN SUPPORT THEREOF**

[CIV. L.R. 7-11, 7-12, & 79-5]

Pursuant to the stipulation of the parties, it is hereby ordered that the Stipulated Order to File Under Seal Defendant EMC Corporation's Opposition to Plaintiff's Motion to Exclude the Testimony of Dr. John Zeitz or, in the Alternative, to Limit his Testimony and Strike Portions of his Report and the Declaration of Dr. John Zeitz in support thereof become the order of this Court.

Dated: Nov.29, 2005


Hon. James Ware
United States District Judge

STIPULATION AND [PROPOSED] ORDER TO FILE
UNDER SEAL EMC'S OPPOSITION AND DECL. OF DR.
ZEITZ IN SUPPORT THEREOF (CASE No. C 04-02660JW)